

SECOND REGULAR SESSION

SENATE BILL NO. 919

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

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TERRY L. SPIELER, Secretary.

3970S.03I

AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to the transportation of radioactive waste, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 260.750, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 260.392 and 260.750, to read as
3 follows:

260.392. 1. As used in this section, the following terms mean:

2 (1) "Cask", all the components and systems associated with the
3 container in which spent fuel, high-level radioactive waste, highway
4 route controlled quantity, or transuranic radioactive waste are stored;

5 (2) "Shipper", the generator, owner, or company contracting for
6 transportation by truck or rail of the spent fuel, high-level radioactive
7 waste, highway route controlled quantity shipments, transuranic
8 radioactive waste, or low-level radioactive waste;

9 (3) "High-level radioactive waste", the highly radioactive material
10 resulting from the reprocessing of spent nuclear fuel including liquid
11 waste produced directly in reprocessing and any solid material derived
12 from such liquid waste that contains fission products in sufficient
13 concentrations, and other highly radioactive material that the Nuclear
14 Regulatory Commission has determined to be high-level radioactive
15 waste requiring permanent isolation;

16 (4) "Highway route controlled quantity", as defined in 49 CFR
17 Part 173.403, as amended, a quantity of radioactive material within a
18 single package. Highway route controlled quantity shipments of thirty
19 miles or less within the state are exempt from the provisions of this
20 section;

21 (5) "Low-level radioactive waste", any radioactive waste not
22 classified as high-level radioactive waste, transuranic radioactive
23 waste, or spent nuclear fuel by the U.S. Nuclear Regulatory
24 Commission, consistent with existing law. Shipment of all sealed
25 sources meeting the definition of low-level radioactive waste, shipments
26 of low-level radioactive waste that are within a radius of no more than
27 fifty miles from the point of origin, and all naturally occurring
28 radioactive material given written approval for landfill disposal by the
29 Missouri department of natural resources under 10 CSR 80-3.010 are
30 exempt from the provisions of this section. Any low-level radioactive
31 waste that has a radioactive half-life equal to or less than one hundred
32 twenty days is exempt from the provisions of this section;

33 (6) "Spent nuclear fuel", fuel that has been withdrawn from a
34 nuclear reactor following irradiation, the constituent elements of which
35 have not been separated by reprocessing;

36 (7) "State-funded institutions of higher education", any campus
37 of any university within the state of Missouri that receives state
38 funding and has a nuclear research reactor;

39 (8) "Transuranic radioactive waste", defined in 40 CFR Part
40 191.02, as amended, as waste containing more than one hundred
41 nanocuries of alpha-emitting transuranic isotopes with half-lives
42 greater than twenty years, per gram of waste. For the purposes of this
43 section, transuranic waste shall not include:

44 (a) High-level radioactive wastes;

45 (b) Any waste determined by the Environmental Protection
46 Agency with the concurrence of the Environmental Protection Agency
47 administrator, that does not need the degree of isolation required by
48 this section; or

49 (c) Any waste that the Nuclear Regulatory Commission has
50 approved for disposal on a case-by-case basis in accordance with 10
51 CFR Part 61, as amended.

52 2. Any shipper that ships high-level radioactive waste,
53 transuranic radioactive waste, highway route controlled quantity
54 shipments, spent nuclear fuel, or low-level radioactive waste through
55 or within the state shall be subject to the fees established in this
56 subsection, provided that no state-funded institution of higher
57 education that ships nuclear waste shall pay any such fee. These

58 higher education institutions shall reimburse the Missouri state
59 highway patrol directly for all costs related to shipment escorts. The
60 fees for all other shipments shall be:

61 (1) One thousand eight hundred dollars for each cask
62 transported through or within the state by truck of high-level
63 radioactive waste, transuranic radioactive waste, spent nuclear fuel or
64 highway route controlled quantity shipments. All casks of high-level
65 radioactive waste, transuranic radioactive waste, spent nuclear fuel, or
66 highway route controlled quantity shipments transported by truck are
67 subject to a surcharge of twenty-five dollars per mile for every mile
68 over two hundred miles traveled within the state;

69 (2) One thousand three hundred dollars for the first cask and one
70 hundred twenty-five dollars for each additional cask for each rail
71 shipment through or within the state of high-level radioactive waste,
72 transuranic radioactive waste, or spent nuclear fuel;

73 (3) One hundred twenty-five dollars for each truck or train
74 transporting low-level radioactive waste through or within the
75 state. The department of natural resources may accept an annual
76 shipment fee as negotiated with a shipper or accept payment per
77 shipment.

78 3. All revenue generated from the fees established in subsection
79 2 of this section shall be deposited into the environmental radiation
80 monitoring fund established in section 260.750 and shall be used by the
81 department of natural resources to achieve the following objectives and
82 for purposes related to the shipment of high-level radioactive waste,
83 transuranic radioactive waste, highway route controlled quantity
84 shipments, spent nuclear fuel, or low-level radioactive waste, including,
85 but not limited to:

86 (1) Inspections, escorts, and security for waste shipment and
87 planning;

88 (2) Coordination of emergency response capability;

89 (3) Education and training of state, county, and local emergency
90 responders;

91 (4) Purchase and maintenance of necessary equipment and
92 supplies for state, county, and local emergency responders through
93 grants or other funding mechanisms;

94 (5) Emergency responses to any transportation incident

95 involving the high-level radioactive waste, transuranic radioactive
96 waste, highway route controlled quantity shipments, spent nuclear fuel,
97 or low-level radioactive waste;

98 (6) Oversight of any environmental remediation necessary
99 resulting from an incident involving a shipment of high-level
100 radioactive waste, transuranic radioactive waste, highway route
101 controlled quantity shipments, spent nuclear fuel, or low-level
102 radioactive waste. Reimbursement for oversight of any such incident
103 shall not reduce or eliminate the liability of any party responsible for
104 the incident; such party may be liable for full reimbursement to the
105 state or payment of any other costs associated with the cleanup of
106 contamination related to a transportation incident;

107 (7) Administrative costs attributable to the state agencies which
108 are incurred through their involvement as it relates to the shipment of
109 high-level radioactive waste, transuranic radioactive waste, highway
110 route controlled quantity shipments, spent nuclear fuel, or low-level
111 radioactive waste through or within the state.

112 4. Nothing in this section shall preclude any other state agency
113 from receiving reimbursement from the department of natural
114 resources and the environmental radiation monitoring fund for services
115 rendered that achieve the objectives and comply with the provisions of
116 this section.

117 5. Any unencumbered balance in the environmental radiation
118 monitoring fund that exceeds three hundred thousand dollars in any
119 given fiscal year shall be returned to shippers on a pro rata basis,
120 based on the shipper's contribution into the environmental radiation
121 monitoring fund for that fiscal year.

122 6. The department of natural resources, in coordination with the
123 department of health and senior services and the department of public
124 safety, may promulgate rules necessary to carry out the provisions of
125 this section. Any rule or portion of a rule, as that term is defined in
126 section 536.010, RSMo, that is created under the authority delegated in
127 this section shall become effective only if it complies with and is
128 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
129 section 536.028, RSMo. This section and chapter 536, RSMo, are
130 nonseverable and if any of the powers vested with the general assembly
131 pursuant to chapter 536, RSMo, to review, to delay the effective date,

132 or to disapprove and annul a rule are subsequently held
133 unconstitutional, then the grant of rulemaking authority and any rule
134 proposed or adopted after August 28, 2008, shall be invalid and void.

135 7. All funds deposited in the environmental radiation monitoring
136 fund through fees established in subsection 2 of this section shall be
137 utilized, subject to appropriation by the general assembly, for the
138 administration and enforcement of this section by the department of
139 natural resources. All interest earned by the monies in the fund shall
140 accrue to the fund.

141 8. All fees shall be paid to the department of natural resources
142 prior to shipment.

143 9. Notice of any shipment of high-level radioactive waste,
144 transuranic radioactive waste, highway route controlled quantity
145 shipments, or spent nuclear fuel through or within the state shall be
146 provided by the shipper to the governor's designee for advanced
147 notification, as described in 10 CFR Parts 71 and 73, as amended, prior
148 to such shipment entering the state. Notice of any shipment of low-
149 level radioactive waste through or within the state shall be provided
150 by the shipper to the Missouri department of natural resources before
151 such shipment enters the state.

152 10. Any shipper who fails to pay a fee assessed under this
153 section, or fails to provide notice of a shipment, shall be liable in a civil
154 action for an amount not to exceed ten times the amount assessed and
155 not paid. The action shall be brought by the attorney general at the
156 request of the department of natural resources. If the action involves
157 a facility domiciled in the state, the action shall be brought in the
158 circuit court of the county in which the facility is located. If the action
159 does not involve a facility domiciled in the state, the action shall be
160 brought in the circuit court of Cole county.

161 11. Beginning on December 31, 2008, and every two years
162 thereafter, the department of natural resources shall prepare and
163 submit a report on activities of the environmental radiation monitoring
164 fund to the general assembly. This report shall include information on
165 fee income received and expenditures made by the state to enforce and
166 administer the provisions of this section.

167 12. The provisions of this section shall not apply to high-level
168 radioactive waste, transuranic radioactive waste, highway route

169 **controlled quantity shipments, spent nuclear fuel, or low-level**
170 **radioactive waste shipped by or for the federal government for military**
171 **or national defense purposes.**

172 **13. Under section 23.253, RSMo, of the Missouri sunset act:**

173 **(1) The provisions of the new program authorized under this**
174 **section shall automatically sunset six years after the effective date of**
175 **this section unless reauthorized by an act of the general assembly; and**

176 **(2) If such program is reauthorized, the program authorized**
177 **under this section shall automatically sunset twelve years after the**
178 **effective date of the reauthorization of this section; and**

179 **(3) This section shall terminate on September first of the**
180 **calendar year immediately following the calendar year in which the**
181 **program authorized under this section is sunset.**

260.750. 1. The department of natural resources shall develop an
2 environmental radiation monitoring program for the purpose of monitoring
3 radioactivity in air, water, soil, plant and animal life as necessary to insure the
4 protection of the public health and safety of the environment from radiation
5 hazards.

6 2. There is hereby created within the state treasury an "Environmental
7 Radiation Monitoring Fund". In addition to general revenue, the department of
8 natural resources is authorized to accept and shall deposit in said fund all gifts,
9 bequests, donations, or other moneys, equipment, supplies, or services from any
10 state, interstate or federal agency, or from any institution, person, firm, or
11 corporation, public or private **as well as fees collected under subsection 2**
12 **of section 260.392.** This fund shall be used for the environmental radiation
13 monitoring program established in this section **and to administer and enforce**
14 **the provisions of section 260.392.**

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